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IN THE SUPREME COURT OF GUAM

**IN RE:** )  
 )  
**PETER R. SGRO, JR.,** )  
 )  
Respondent. )

Supreme Court Case No. ADC00-002

**ORDER FOR PUBLIC REPRIMAND**

This attorney discipline matter came before this court for oral argument on May 10, 2001. Respondent Peter R. Sgro ("Sgro") was represented by Sandra D. Lynch, Esq. and the Guam Bar Association Ethics Committee was represented by Prosecuting Counsel David J. Highsmith, Esq. At issue is the proposed order for a public reprimand submitted by the Guam Bar Ethics Committee pursuant to Rule 2 of the Guam Rules for the Discipline of Attorneys. Upon review of the issues, we hereby affirm the findings of the Ethics Committee and publicly reprimand Sgro. Furthermore, we order Sgro to complete six credits of continuing legal education pursuant to the terms and conditions herein set forth.

Ethics complaints were filed against Sgro by two of his former clients for: (1) failing to withdraw from representing a client when his mental or physical condition impairs his ability to represent that client; (2) failing to act with reasonable diligence and promptness in representing a client; (3) failing to keep a client reasonably informed about the status of a matter; and (4) failing to provide competent representation to a client. The Guam Bar Ethics Committee ("Ethics Committee") held a formal hearing held on December 5 and 9, 1998, and found that Sgro violated Rules 1.1, 1.3, 1.4, and 1.16(a)(2) of the Guam Rules of Professional Conduct.

On January 15, 1999, the Ethics Committee issued a Findings of Fact and Conclusions of Law recommending a private reprimand. The private reprimand was conditioned upon Sgro's

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3 compliance with the Ethics Committee's requirement that Sgro complete eight hours of  
4 continuing legal education ("CLE") in a live classroom format in law office management or  
5 legal ethics within one year of this court's entry of the Findings of Fact and Conclusions of Law.  
6 If Sgro did not comply with the requirements, the private reprimand was to become a public  
7 reprimand. The Ethics Committee then submitted its Findings of Fact and Conclusions of Law to  
8 this court. Pursuant to the then-newly promulgated Rule 2-2 of the Guam Rules for the  
9 Discipline of Attorneys, this court refused to consider the Findings of Fact and Conclusions of  
10 Law and returned it to the Ethics Committee. Under Rule 2-2, Sgro had the right to appeal the  
11 Findings of Fact and Conclusions of Law, but he opted instead to attempt to comply with the  
12 Ethics Committee's disciplinary requirements set forth therein.

13 Sgro alleged to have attended CLE courses worth six credits in Portland, Oregon in  
14 November 1999. Sgro provided proof of his attendance to the Ethics Committee but was  
15 informed that the evidence was insufficient and the CLE's would not be applicable. Sgro then  
16 requested and was granted a sixty day extension to complete the CLE requirement. Despite the  
17 sixty day extension, by March of 2000, the Ethics Committee determined that Sgro had still  
18 failed to comply with the conditions for the private reprimand. On March 23, 2000, the Ethics  
19 Committee submitted a proposed order for discipline to this court requesting a public reprimand  
20 for Sgro. The following month, the Guam Bar Association issued a press release, informing the  
21 public that the Ethics Committee was seeking a public reprimand for Sgro. In April and May  
22 2000, Sgro attended additional CLE courses in California, obtaining an additional three credits.  
23 Sgro challenged the Ethics Committee's proposed order.

24 **II.**

25 This court has jurisdiction over attorney discipline matters pursuant to Title 7 GCA. §§  
26 3107 and 9101 (1994). We review *de novo* all factual and legal determinations made by the  
27 Ethics Committee as well as the appropriateness of the proposed discipline. GUAM RULES FOR  
28 THE DISCIPLINE OF ATTORNEYS Rule 3(b). The respondent has the burden of persuasion to

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3 establish that the findings, conclusions, and discipline of the Ethics Committee should not be  
4 sustained. GRDA Rule 3(e).

5 **III.**

6 We first note Sgro's argument that the Guam Bar Association's press release on April 24,  
7 2000 essentially made the private reprimand a public reprimand, rendering moot the issue of  
8 whether he should be publicly reprimanded. Although the issuance of the press release was  
9 inappropriate, it was not a public reprimand and thus does not make the matter moot. Only this  
10 court has the authority to issue a public reprimand. *See* GRDA Rules 3(f) and 12(d).

11 The only issue we face is whether Sgro completed the conditions imposed by the Ethics  
12 Committee to keep the level of discipline at a private reprimand within the time allotted. The  
13 Ethics Committee, in its Findings of Fact and Conclusions of Law, specifically issued the private  
14 reprimand on the conditions that Sgro take no less than eight hours of continuing legal education  
15 in a live classroom format, and provide proof of the successful completion of the CLE, within  
16 the one year time period. Sgro claims to have earned three CLE credits in California and six CLE  
17 credits in Portland, Oregon. The Ethics Committee does not dispute Sgro's attendance at the  
18 California CLE courses. Thus, we need only consider whether Sgro proved by a preponderance  
19 of the evidence that he attended the CLE courses in Oregon, fulfilling the conditions of the  
20 discipline. *See Attorney Grievance Com'n of Maryland v. Bernstein*, 768 A.2d 607, 616 (Md.  
21 2001) (holding that the attorney facing discipline bears the burden of proving factual matters in  
22 defense of his position by a preponderance of the evidence).

23 As evidence of his trip to Oregon and as proof he attended the CLE courses, Sgro  
24 presented: (1) an itinerary showing he had a ticket to San Francisco; (2) a note from his travel  
25 agent stating that a few airlines would accept his frequent flier miles for flights from San  
26 Francisco to Portland, Oregon; (3) a receipt showing he registered and paid for the courses; (4)  
27 copies of the brochures for the courses; and (5) a fax from the Oregon State Bar stating that it  
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3 requires attorneys to keep track of their own CLE attendance through a signed, notarized  
4 compliance report and does not require attorneys to provide certificates of attendance.

5 The itinerary showing a ticket to San Francisco does not prove that Sgro traveled to  
6 Portland, Oregon. The itinerary only reflects roundtrip travel from Guam to San Francisco  
7 through Hawaii. The only reference to Oregon is in the note from the travel agent stating that  
8 there were a few airlines that would allow him to use his frequent flier miles to obtain a ticket  
9 from San Francisco to Portland. Sgro did not present an airline ticket stub, car rental receipt,  
10 hotel or restaurant receipt or any other document to establish that he was in Oregon. The  
11 itinerary shows only that Sgro made an inquiry regarding a method for obtaining a ticket to  
12 Oregon and not that he actually made the trip.

13 The copies of the brochures for the CLE courses and the receipt showing he registered  
14 and paid for the courses are also insufficient to prove his attendance. Sgro could have registered  
15 and paid for the CLE courses and obtained the brochures in advance. Because nothing in the  
16 receipt or in the brochures establishes that Sgro was or had to be physically present to obtain  
17 them, they do not prove that he actually attended the courses.

18 As further evidence that he attended the Oregon CLE courses, Sgro provided the Ethics  
19 Committee with a fax from the Oregon State Bar stating that it requires attorneys to keep track of  
20 their own CLE attendance and that it does not require attorneys to provide certificates of  
21 attendance. Sgro offered the fax to explain why he could not produce any certificates of  
22 attendance for the Oregon CLE courses. However, the fax did not state that certificates of  
23 attendance were not issued at Oregon CLE courses, only that the Oregon State Bar does not  
24 require such certificates as proof of attendance. According to the fax, the Oregon State Bar uses  
25 a self reporting system and requires attorneys to submit signed, notarized compliance reports to  
26 keep track of their CLE attendance. Sgro did not provide such a document to the Ethics  
27 Committee as evidence of his attendance at the CLE courses in Oregon. Thus the fax from the  
28 Oregon State Bar offers Sgro no support. We find that Sgro failed to meet the burden of proving

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3 his attendance at eight hours of live CLE courses and, therefore, did not complete the Ethics  
4 Committee's disciplinary requirements.

5 **IV.**

6 Because Sgro failed to comply with the conditions imposed by the Ethics Committee, he  
7 is hereby publicly reprimanded. In addition to affirming the Ethics Committee's findings, it is  
8 within the authority of this court to increase the quantity and nature of the discipline to be  
9 imposed. *See* GRDA Rules 3(b) and 3(f). Sgro is hereby ordered to attend six CLE credit hours  
10 in the field of ethics, taken in a live classroom format and not through tapes, videotapes, or home  
11 study materials and to provide proof of actual attendance at the CLE courses to the Ethics  
12 Committee within one year of the filing of this order. If Sgro fails to comply with this order, he  
13 will be subject to further discipline by this court.

14 Pursuant to Guam Rule of Attorney Discipline (3)(f)(2), Sgro is ordered to appear before  
15 this court on July 24, 2001 at 10:00 a.m. to receive oral publication of this public reprimand.

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17 **SO ORDERED**, this 11<sup>th</sup> day of July 2001.

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19 **Peter C. Siguenza, Jr.**

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21 PETER C. SIGUENZA  
Associate Justice

**John A. Manglona**

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JOHN A. MANGLONA  
Designated Justice

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23 **Benjamin J.F. Cruz**

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BENJAMIN J. F. CRUZ  
Chief Justice

25 I do hereby certify that the foregoing  
26 is a full true and correct copy of the  
original on file in the office of the  
clerk of the Supreme Court of Guam.  
Dated at Hagatña, Guam

27 JUL 12 2001

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*Imelda B. Durvas*  
Deputy Clerk, Supreme Court of Guam